

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

<p>MARCEL G. RIVERA KON-KIN</p> <p>Plaintiff,</p> <p style="text-align: center;">v.</p> <p>STEVEN MNUCHIN, in his official capacity as the Secretary of the U.S. Department of Treasury; CHARLES RETTIG, in his official capacity as U.S. Commissioner of Internal Revenue; DEPARTMENT OF THE TREASURY; the U.S. INTERNAL REVENUE SERVICE; the UNITED STATES OF AMERICA.</p> <p>Defendants.</p>	<p>Civil No. 20-cv-1721 (WGY)</p> <p>Declaratory Judgment Action and Petition for Writ of <i>Mandamus</i></p>
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MOTION REQUESTING CONTINUANCE

TO THE HONORABLE COURT:

Comes now the plaintiff, represented by the undersigned attorney, and respectfully states and prays as follows:

Mr. Rivera Kon-Kin filed a petition for a writ of mandamus, and declaratory judgment on December 16, 2020, and requested that the Court schedule an Emergency Hearing to address the claims raised by this petition. (*See* Docket Entry #5).

The current deadline for defendants to respond to the petition is January 7, 2021.

On December 28, 2020, Mr. Christopher J. Williamson, Esq., from the United States Department of Justice, Tax Division, on behalf of the defendants, contacted the undersigned to inform that the United States Department of Treasury has approved the Amendment to the EIP Distribution Plan submitted by the Puerto Rico Department of Treasury on December 3, 2020.

The Amended EIP Distribution Plan eliminates the restriction on imprisoned persons from requesting and receiving the EIP benefits.

The parties also discussed and agreed that, based on the Amended EIP Distribution Plan, all incarcerated persons who qualify for EIP in Puerto Rico, to the extent that they have not otherwise applied for or received EIP from the federal government, they may have an opportunity to request their EIP benefits through the Puerto Rico Department of Treasury. Nevertheless, this has not been implemented by the local tax agency.

The parties also agree that, pursuant to 26 U.S.C. § 6428 and implemented by the Amended EIP Distribution Plan, although no one may receive an advance refund of the section 6428 credit after December 31, 2020, an eligible person may still claim a section 6428 credit after that date by filling a 2020 income tax form with the Puerto Rico Department of Treasury.

Plaintiff withdraws his request for an emergency hearing. In addition, the parties respectfully request that the Court enters an order extending defendants' time to respond to the petition from January 7, 2021 until February 5, 2021, to ensure that the execution of this amended EIP Distribution Plan is properly implemented at a local level and that certain additional issues are resolved.

WHEREFORE, Plaintiff prays that the Court takes note of the content in the following motion and enters an order extending defendants' time to respond to the petition from January 7, 2021 until February 5, 2021, in order to allow the parties to inform to the Court the developments of the case.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 30th day of December 2020.

I HEREBY CERTIFY, that on this date the present document has been filed electronically and will be available for viewing and downloading from the Court's CFM/ECF system by U.S. Attorney's Office, or the public.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 30th day of December 2020.

s/ Diego H. Alcalá Laboy
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